

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/14/08
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STATE OF NEW YORK

OFFICE OF THE ATTORNEY GENERAL

**MEMO ENDORSED**ANDREW M. CUOMO  
Attorney GeneralLESLIE G. LEACH  
Executive Deputy Attorney General  
Division of State CounselJUNE DUFFY  
Assistant Attorney General in Charge  
Litigation Bureau

[212-416-8118]

January 14, 2008

By Fax: 212-805-6724  
Honorable Frank Maas  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

**APPLICATION GRANTED  
SO ORDERED**  
Frank Maas, USMJ 1/14/08Re: Hofelich v. Ercole, et. al., 07 CV 5663 (LTS)(FM)

Your Honor:

I am an Assistant Attorney General in the Office of Andrew M. Cuomo, Attorney General of the State of New York, assigned to the defense of this matter. I write on behalf of defendants Superintendent Ercole, Sergeant Centanni, Correction Officers Lingenfelter-Bain and Erhart and Captain Keyser to respectfully request a forty-five (45) day enlargement of time to answer, move or otherwise respond to the Complaint until February 25, 2008.

An extension of time is necessary to investigate the facts alleged in the complaint, obtain the necessary documents, and prepare an appropriate response on behalf of defendants Superintendent R. Ercole, Sergeant Centanni, Correction Officers Lingenfelter-Bain and Erhart and Captain Keyser.<sup>1</sup>

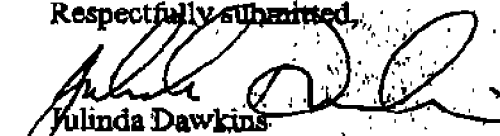
<sup>1</sup>I note that by making this request on behalf of defendants Superintendent Ercole, Sergeant Centanni, Correction Officers Lingenfelter-Bain and Erhart and Captain Keyser, I am not waiving any possible defenses that they may have, including the lack of personal jurisdiction.

Additionally, the parties are currently in the process of discussing settlement of this case as well as several others brought by plaintiff in the Southern District of New York (Hofelich v. Ercole, et. al., 07 CV 8059 (PKC)(DFE) and Hofelich v. Ercole, et. al., 06 CV 13697 (PKC)(DFE)) and the Western District of New York (Hofelich v. DiMichael, et. al., 07 CV 6549 (FE)). The two cases currently pending in the Southern District of New York have been referred to the Honorable Judge Douglas E. Eaton for him to oversee all general pre-trial proceedings and a status conference is currently scheduled for January 29, 2008 at 10:00 a.m.

I did not request the consent of incarcerated plaintiff pro se to extend defendants time to respond to the complaint because I wanted to make this request on behalf of the defendants forthwith. No previous requests for an extension of time to move or answer have been made.

Accordingly, I request that defendants' time to respond to the complaint be enlarged to February 25, 2008. I thank the Court for its consideration in this matter.

Respectfully submitted,



Julinda Dawkins  
Assistant Attorney General

cc: Jason Hofelich  
Plaintiff Pro Se  
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